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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,191	03/15/2004	Jagadish Sorab	81044316	8745

28866 7590 08/25/2005

MACMILLAN, SOBANSKI & TODD, LLC  
ONE MARITIME PLAZA - FOURTH FLOOR  
720 WATER STREET  
TOLEDO, OH 43604

EXAMINER

LEWIS, TISHA D

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/800,191

Applicant(s)

SORAB ET AL.

Examiner

TISHA D. LEWIS

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8 and 10 is/are rejected.
- 7) ☒ Claim(s) 5 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

The following is a first action on the merits of application serial no. 10/800,191 filed on March 15, 2004.

#### ***Information Disclosure Statement***

The information disclosure statement filed on March 15, 2004 has been considered.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Majkrzak ('235) in view of Japanese reference 2002357265A. Majkrzak discloses a heater system having a supply duct (22) for carrying exhaust gas from an engine, a heat exchanger (32) communicating through a first connection (36) with the supply duct, an exhaust duct communicating through a second connection (37) with the supply duct, a valve (34) located between both connections wherein when closed provides exhaust to the first connection and when open, bypasses the first connection, an engine manifold (20), a catalytic converter (24) connected between the manifold and the first connection, but Majkrzak does not disclose the heat exchange secured to an oil pan.

The Japanese reference discloses a heating system having an oil pan (5) secured to a transmission case (4) and partially enclosing the pan, a supply duct (11)

carrying coolant from an engine, a heat exchanger (30) secured to the oil pan and communicating through a first connection (31) with the supply duct and providing a flow path along the surface of the exchanger, an exhaust duct (16) communicating through a second connection (32) for carrying coolant from the exchanger and the heat exchanger having an opening closed by the oil pan.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the heat exchanger of Majkrzak secured to an oil pan of a transmission in view of the Japanese reference to warm fluids of multiple systems consecutively or simultaneously.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Majkrzak in view of Ito et al ('136). Majkrzak discloses a heater system having a supply duct (22) for carrying exhaust gas from an engine, a heat exchanger (32) communicating through a first connection (36) with the supply duct, an exhaust duct communicating through a second connection (37) with the supply duct, a valve (34) located between both connections wherein when closed provides exhaust to the first connection and when open, bypasses the first connection, a sensor for obtaining the current temperature of a coolant, but Majkrzak does not disclose the heat exchange secured to an oil pan.

Ito et al discloses a warm up device having a heat exchanger (21) which is mounted to an oil pan (110) of a transmission and a valve for controlling fluid flow according to a controller that compares a current temperature (TW or TO) with a target temperature (TW1 or TO1) and determines the position of the valve to maintain a fluid

Art Unit: 3681

temperature, a sensor for producing a signal (105 or 107) of the temperature and an actuator for operating the valve.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide Majkrzak with a temperature control for the valve in view of Ito et al to provide a parameter for determining a specific temperature wherein the valve should be automatically turned on or off.

### ***Allowable Subject Matter***

Claims 5 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **FACSIMILE TRANSMISSION**

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(703) 872-9326 before final and 703-872-9327 after final**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to  
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Typed or printed name of person signing this certificate:

\_\_\_\_\_

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(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Lee ('758), Turbett et al ('603), Hollis ('164), Thompson ('304) and Japanese 2003314673A.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to TISHA D. LEWIS whose telephone number is 571-272-7093. The examiner can normally be reached on M-Thur 6 AM TO 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHARLES A. MARMOR can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3681

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tdl  
August 22, 2005

  
TISHA LEWIS  
PRIMARY EXAMINER  
AU 3681 8/22/05